

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

DOLIN, THOMAS AND SOLOMON,

Plaintiff,

vs.

08-CV-6181-L

UNITED STATES DEPARTMENT OF LABOR,

Defendant.

ANSWER

Now comes the defendant, United States Department of Labor, by and through its attorney, Terrance P. Flynn, United States Attorney, Christopher V. Taffe, Assistant United States Attorney, of counsel, and hereby answers and responds to the plaintiff's First Amended Complaint as follows:

1. The introductory paragraph consists of the plaintiff's characterization of this action, which does not require an answer; but, insofar as an answer may be deemed required, the defendant denies the allegations contained therein.

2. Paragraphs 1, 2, 9, 10, 12 and the first and third sentences of paragraph 4 contain conclusions of law to which no response is required. To the extent an answer is deemed required, the defendant denies the allegations contained therein.

3. The defendant is without knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 3.

4. The defendant admits the allegations contained in paragraph 8 and the second sentence of paragraph 4.

5. With respect to paragraphs 5, 6, and 7, the defendant admits that it received from the plaintiff by Federal Express three Freedom of Information Act ("FOIA") requests, dated December 11, 2007. True and correct copies are attached to this Answer as Exhibits A, B, and C.

6. In paragraph 11, the plaintiff realleges paragraphs 1 through 8 above. The defendant restates and reincorporates its responses to the allegations contained in paragraphs 1 through 8 above.

7. The remaining allegations of the Complaint after the word WHEREFORE on page 4 of the Complaint contain the plaintiff's prayer for relief to which no answer is required. To the extent an answer is required, the defendant denies the allegations of the Complaint after the word WHEREFORE and denies that the plaintiff is entitled to any of the relief it requests.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim for relief because the defendant has not improperly withheld records, some if not all

the information the plaintiff seeks is exempt from disclosure under FOIA, and for other reasons.

SECOND AFFIRMATIVE DEFENSE

The plaintiff is not entitled to attorney fees and/or costs incurred in this action.

WHEREFORE, the defendant, having fully answered the First Amended Complaint, respectfully asks that this action be dismissed and that the defendant be granted such other Relief that the Court deems proper.

DATED: Rochester, New York
 July 11, 2008

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